

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1269

Introduced by Assembly Member Brownley

February 27, 2009

An act to amend Section 14007.9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, as amended, Brownley. Medi-Cal: eligibility.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded by federal Medicaid provisions.

Existing law, subject to the receipt of federal financial participation, requires the department to adopt a federal option under which any employed individual with a disability who meets specified income and resource requirements, shall be eligible for benefits under the Medi-Cal program, subject to the payment of premiums.

This bill would, to the extent that federal financial participation is available, authorize ~~individuals~~ *an individual* who ~~are~~ *is* otherwise eligible under this program but who ~~are~~ *is* temporarily unemployed to elect to remain on Medi-Cal pursuant to these provisions for a period up to 26 weeks, as provided. This bill would also provide additional resource exemptions in determining Medi-Cal eligibility under these provisions. The bill would extend specified resource exemptions to

apply for the beneficiary under any other Medi-Cal program under which the beneficiary later becomes eligible for medical assistance where that eligibility is based on age, blindness, or disability.

This bill would make its provisions operative 30 days after the date that the increase in the state's federal medical assistance percentage (FMAP) pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) is no longer available.

Existing law requires individuals who are eligible for Medi-Cal benefits pursuant to these provisions to be subject to premiums that are determined by a sliding scale that is based on countable income, as provided.

This bill, not later than ~~March 1, 2010~~ *90 days after the operative date specified above*, would, instead, require each individual to pay a monthly premium that is equal to 5% of his or her individual or spousal countable income, as described, except that the premium cannot fall below or exceed a specified minimum and maximum premium payment, as provided.

The bill would require the above-described provisions to be implemented only to the extent that federal financial participation is available, and only to the extent that the department seeks and obtains approval of all necessary state plan amendments.

Because counties are required to make Medi-Cal eligibility determinations and this bill would extend the expansion of Medi-Cal eligibility, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 14007.9 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 *14007.9. (a) (1) The department shall adopt the option made*
- 4 *available under Section 1902(a)(10)(A)(ii)(XIII) of the federal*

Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In order to be eligible for benefits under this section, an individual shall be required to meet all of the following requirements:

(1)

(A) His or her net countable income is less than 250 percent of the federal poverty level for one person or, if the deeming of spousal income applies to the individual, his or her net countable income is less than 250 percent of the federal poverty level for two persons.

(2)

(B) He or she is disabled under Title II of the *federal* Social Security Act (~~Subch. 2 (commencing with (42 U.S.C. Sec. 401), Ch. 7, Title 42 U.S.C.) et seq.~~), Title XVI of the *federal* Social Security Act (~~Subch. 16 (commencing with (42 U.S.C. Sec. 1381) Ch. 7, Title 42, U.S.C.)~~, *1381 et seq.*), or Section 1902(v) of the *federal* Social Security Act (42 U.S.C. Sec. 1396a(v)). An individual shall be determined to be eligible under this section without regard to his or her ability to engage in, or actual engagement in, substantial gainful activity, as defined in Section 223(d)(4) of the *federal* Social Security Act (42 U.S.C. Sec. 423(d)(4)).

(3)

(C) Except as otherwise provided in this section, his or her net nonexempt resources, which shall be determined in accordance with the methodology used under Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the limits provided for under those provisions.

(2) *To the extent federal financial participation is available, an individual otherwise eligible under this section, but who is temporarily unemployed, may elect to remain on Medi-Cal under this section for up to 26 weeks, provided the individual continues to pay premiums during the temporary period of unemployment.*

(b) (1) Countable income shall be determined under Section 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a), except that the individual's disability income, including all federal and state disability benefits and private disability insurance, shall be exempted. Resources excluded under Section 1613 of the federal Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

(2) Resources in the form of employer or individual retirement arrangements authorized under the Internal Revenue Code shall

1 be exempted as authorized by Section 1902(r) of the federal Social
2 Security Act (42 U.S.C. Sec. 1396a(r)).

3 (3) (A) For the purposes of calculating countable income under
4 this section, an income exemption shall be applied as necessary
5 to adjust the income standard so that it is the same as the income
6 standard that was in place on May 1, 2009.

7 (B) This additional income exemption shall cease to be
8 implemented when the SSI/SSP program payment levels increase
9 beyond those in effect on May 1, 2009.

10 (C) Notwithstanding Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
12 the department shall implement this paragraph by means of an
13 all-county letter or similar instruction without taking regulatory
14 action.

15 (4) *Retained earned income of an eligible individual who is*
16 *receiving health care benefits under this section shall be considered*
17 *an exempt resource when held in a separately identifiable account*
18 *and not commingled with other resources, as authorized by Section*
19 *1902(r)(2) of the federal Social Security Act (42 U.S.C. Sec.*
20 *1396a(r)(2)).*

21 (5) *Social security disability income that converts to social*
22 *security retirement income upon the retirement of an individual,*
23 *including any increases in the amount of that income, shall be*
24 *exempt. The department shall submit a state plan amendment for*
25 *this specific exemption, and the exemption shall be implemented*
26 *only if, and to the extent that, the state plan amendment is*
27 *approved.*

28 (c) *All resources exempted pursuant to paragraph (2) of*
29 *subdivision (b) for an individual who is receiving health care*
30 *benefits under this section shall continue to be exempt under any*
31 *other Medi-Cal program that is subject to Section 1902(r)(2) of*
32 *the federal Social Security Act (42 U.S.C. Sec. 1396a(r)(2)) under*
33 *which the beneficiary later becomes eligible for medical assistance*
34 *where that eligibility is based on age, blindness, or disability. The*
35 *department shall submit a state plan amendment for this specific*
36 *exemption, and the exemption shall be implemented only if, and*
37 *to the extent that, the state plan amendment is approved.*

38 (d) *After an individual is determined eligible for Medi-Cal*
39 *benefits under this section, the individual's countable income, as*
40 *determined under Section 1612 of the federal Social Security Act*

(42 U.S.C. Sec. 1382a), shall be used to determine the amount of the individual's required premium payment, as described in subdivision (f). Disability income and converted retirement income made exempt under paragraphs (1) and (5), respectively, of subdivision (b) for eligibility purposes shall be considered countable income for purposes of determining the amount of the required premium payment.

(e)

(e) Medi-Cal benefits provided under this chapter pursuant to this section shall be available in the same amount, duration, and scope as those benefits are available for persons who are eligible for Medi-Cal benefits as categorically needy persons and as specified in Section 14007.5.

(d)

(f) (1) Individuals eligible for Medi-Cal benefits under this section shall be subject to the payment of premiums determined under this subdivision. ~~The department shall establish sliding-scale premiums that are based on countable income, with a minimum premium of~~ Each individual shall pay a monthly premium that is equal to 5 percent of his or her individual countable income, as described in subdivision (d), or if the deeming of spousal income of an ineligible spouse applies, a monthly premium that is equal to 5 percent of the total countable income of both spouses, except that the minimum premium payment per eligible individual shall be twenty dollars (\$20) per month ~~and a, and the maximum premium of payment per eligible individual shall be two hundred fifty dollars (\$250) per month, and shall, by regulations, annually adjust the premiums. Prior to adjustment of any premiums pursuant to this subdivision, the department shall submit a report of proposed premium adjustments to the appropriate committees of the~~ Legislature as part of the annual budget act process.

(e) ~~The department shall adopt regulations specifying the process for discontinuance of eligibility under this section for nonpayment of premiums for more than two months by a beneficiary.~~

(2) ~~The amendments made to this subdivision by the act that added subdivision (k) shall be implemented no later than 90 days after the operative date specified in that subdivision.~~

(f)

(g) In order to implement the collection of premiums under this section, the department may develop and execute a contract with

1 a public or private entity to collect premiums, or may amend any
2 existing or future premium-collection contract that it has executed.
3 Notwithstanding any other provision of law, any contract developed
4 and executed or amended pursuant to this subdivision is exempt
5 from the approval of the Director of General Services and from
6 the Public Contract Code.

7 ~~(g)~~

8 (h) Notwithstanding the rulemaking provisions of Chapter 3.5
9 (commencing with Section 11340) of Part 1 of Division 3 of Title
10 2 of the Government Code, the department shall implement,
11 without taking any regulatory action, this section by means of an
12 all-county letter or similar instruction. Thereafter, the department
13 shall adopt regulations in accordance with the requirements of
14 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
15 3 of Title 2 of the Government Code.

16 ~~(h)~~

17 (i) Notwithstanding any other provision of law, this section shall
18 be implemented only if, and to the extent that, the department
19 determines that federal financial participation is available pursuant
20 to Title XIX of the federal Social Security Act (42 U.S.C. Sec.
21 1396 et seq.) *and only to the extent that the department seeks and*
22 *obtains approval of all necessary Medicaid state plan amendments.*

23 ~~(i) Subject to subdivision (h), this section shall be implemented~~
24 ~~commencing April 1, 2000.~~

25 (j) *If any provision of this section, or its application, is held*
26 *invalid by a final judicial determination, it shall cease to be*
27 *implemented. A determination of invalidity shall not affect other*
28 *provisions or applications of this section that can be given effect*
29 *without the implementation of the invalid provision or application.*

30 (k) *The amendments made to this section by the act that added*
31 *this subdivision shall not become operative until 30 days after the*
32 *date that the increase in the state's federal medical assistance*
33 *percentage (FMAP) pursuant to the federal American Recovery*
34 *and Reinvestment Act of 2009 (P.L. 111-5) is no longer available*
35 *under that act or any extension of that act.*

36 ~~SECTION 1. Section 14007.9 of the Welfare and Institutions~~
37 ~~Code is amended to read:~~

38 ~~14007.9. (a) (1) The department shall adopt the option made~~
39 ~~available under Section 1902(a)(10)(A)(ii)(XIII) of the federal~~
40 ~~Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In~~

1 order to be eligible for benefits under this section, an individual
2 shall be required to meet all of the following requirements:

3 (A) His or her net countable income is less than 250 percent of
4 the federal poverty level for one person or, if the deeming of
5 spousal income applies to the individual, his or her net countable
6 income is less than 250 percent of the federal poverty level for
7 two persons.

8 (B) He or she is disabled under Title II of the federal Social
9 Security Act (42 U.S.C. Sec. 401 et seq.), Title XVI of the federal
10 Social Security Act (42 U.S.C. Sec. 1381 et seq.), or Section
11 1902(v) of the federal Social Security Act (42 U.S.C. Sec.
12 1396a(v)). An individual shall be determined to be eligible under
13 this section without regard to his or her ability to engage in, or
14 actual engagement in, substantial gainful activity, as defined in
15 Section 223(d)(4) of the federal Social Security Act (42 U.S.C.
16 Sec. 423(d)(4)).

17 (C) Except as otherwise provided in this section, his or her net
18 nonexempt resources, which shall be determined in accordance
19 with the methodology used under Title XVI of the federal Social
20 Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the
21 limits provided for under those provisions.

22 (2) To the extent federal financial participation is available,
23 individuals otherwise eligible under this section, but who are
24 temporarily unemployed, may elect to remain on Medi-Cal under
25 this section for up to 26 weeks, provided the individuals continue
26 to pay premiums during the temporary period of unemployment.

27 (b) (1) Countable income shall be determined under Section
28 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a),
29 except that the individual's disability income, including all federal
30 and state disability benefits and private disability insurance, shall
31 be exempted. Resources excluded under Section 1613 of the federal
32 Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

33 (2) Resources in the form of employer or individual retirement
34 arrangements authorized under the Internal Revenue Code shall
35 be exempted as authorized by Section 1902(r) of the federal Social
36 Security Act (42 U.S.C. Sec. 1396a(r)).

37 (3) Retained earned income of an eligible individual who is
38 receiving health care benefits under this section shall be considered
39 an exempt resource when held in a separately identifiable account
40 and not commingled with other resources, as authorized by Section

1 ~~1902(r)(2) of the federal Social Security Act (42 U.S.C. Sec.~~
2 ~~1396a(r)(2)).~~

3 ~~(4) Social security disability income that converts to social~~
4 ~~security retirement income upon the retirement of an individual,~~
5 ~~including any increases in the amount of that income, shall be~~
6 ~~exempt. The department shall submit a state plan amendment for~~
7 ~~this specific exemption, and the exemption shall be implemented~~
8 ~~only if, and to the extent that, the state plan amendment is~~
9 ~~approved.~~

10 ~~(e) All resources exempted pursuant to paragraph (2) of~~
11 ~~subdivision (b) for an individual who is receiving health care~~
12 ~~benefits under this section shall continue to be exempt under any~~
13 ~~other Medi-Cal program that is subject to Section 1902(r)(2) of~~
14 ~~the federal Social Security Act (42 U.S.C. Sec. 1396a(r)(2)) under~~
15 ~~which the beneficiary later becomes eligible for medical assistance~~
16 ~~where that eligibility is based on age, blindness, or disability. The~~
17 ~~department shall submit a state plan amendment for this specific~~
18 ~~exemption, and the exemption shall be implemented only if, and~~
19 ~~to the extent that, the state plan amendment is approved.~~

20 ~~(d) After an individual is determined eligible for Medi-Cal~~
21 ~~benefits under this section, the individual's countable income, as~~
22 ~~determined under Section 1612 of the federal Social Security Act~~
23 ~~(42 U.S.C. Sec. 1382a), shall be used to determine the amount of~~
24 ~~the individual's required premium payment, as described in~~
25 ~~subdivision (f). Disability income and converted retirement income~~
26 ~~made exempt under paragraph (1) of subdivision (b) for eligibility~~
27 ~~purposes shall be considered countable income for purposes of~~
28 ~~determining the amount of the required premium payment.~~

29 ~~(e) Medi-Cal benefits provided under this chapter pursuant to~~
30 ~~this section shall be available in the same amount, duration, and~~
31 ~~scope as those benefits are available for persons who are eligible~~
32 ~~for Medi-Cal benefits as categorically needy persons and as~~
33 ~~specified in Section 14007.5.~~

34 ~~(f) (1) Individuals eligible for Medi-Cal benefits under this~~
35 ~~section shall be subject to the payment of premiums determined~~
36 ~~under this subdivision. Each individual shall pay a monthly~~
37 ~~premium that is equal to 5 percent of his or her individual countable~~
38 ~~income, as defined in subdivision (d), or if the deeming of spousal~~
39 ~~income of an ineligible spouse applies, a monthly premium that~~
40 ~~is equal to 5 percent of the total countable income of both spouses,~~

1 except that the minimum premium payment per eligible individual
2 shall be twenty dollars (\$20) per month, and the maximum
3 premium payment per eligible individual shall be two hundred
4 fifty dollars (\$250) per month.

5 (2) The amendments made to this subdivision during the
6 2009-10 Regular Session shall be implemented no later than March
7 1, 2010.

8 (g) In order to implement the collection of premiums under this
9 section, the department may develop and execute a contract with
10 a public or private entity to collect premiums, or may amend any
11 existing or future premium-collection contract that it has executed.
12 Notwithstanding any other provision of law, any contract developed
13 and executed or amended pursuant to this subdivision is exempt
14 from the approval of the Director of General Services and from
15 the Public Contract Code.

16 (h) Notwithstanding the rulemaking provisions of Chapter 3.5
17 (commencing with Section 11340) of Part 1 of Division 3 of Title
18 2 of the Government Code, the department shall implement,
19 without taking any regulatory action, this section by means of an
20 all-county letter or similar instruction. Thereafter, the department
21 shall adopt regulations in accordance with the requirements of
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code.

24 (i) Notwithstanding any other provision of law, this section shall
25 be implemented only if, and to the extent that, the department
26 determines that federal financial participation is available pursuant
27 to Title XIX of the federal Social Security Act (42 U.S.C. Sec.
28 1396 et seq.) and only to the extent that the department seeks and
29 obtains approval of all necessary Medicaid state plan amendments.

30 (j) If any provision of this section, or its application, is held
31 invalid by a final judicial determination, it shall cease to be
32 implemented. A determination of invalidity shall not affect other
33 provisions or applications of this section that can be given effect
34 without the implementation of the invalid provision or application.

35 SEC. 2. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O